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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42463-2025 (O&M)

Date of decision: August 11, 2025

Mahabir

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Ram Kumar Saini, Advocate for the petitioner.

Mr. Deepak Kumar Grewal, DAG Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case bearing FIR No.896 dated 22.12.2024, registered for the offences punishable under Sections 305 of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') (Sections 112(2) & 61(2) of the BNS added later on), at Police Station HTM, Hisar, District Hisar.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:

"To the SHO, Police Station Mill Gate. Subject: With regard to theft. Stated that theft has been committed in Baba Vishwakarma Market and Premvir HP Petrol Pump. On 18.12.24 and 19.12.24, diesel has been stolen from the pump. Prior to this, wiring of our two cars was stolen which was worth Rs.2 lakh at least. The diesel which was stolen from the vehicles, was approx. 1700 - 1800 Itrs. and yesterday i.e. on 21.12.24, batteries of vehicles were stolen and immediately we made a call at 112 number and PCR had come there and from Flat No.97FF of Global Space BPL Housing Board, battery of E-rickshaw and diesel were recovered. The thieves are on run. He has one Bolero of Army Colour which is having No.HR 20 KX 8686. The name of its driver is stated to be Mahabir. It is our humble request to you to catch the thief. There was one security guard who had come 10 minutes prior to theft, whose name is

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Ajay Sharma. We have doubt that he is connived in the theft. You are requested to take stern action on our complaint.”

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question. Learned counsel has argued that the petitioner is in custody since 21.01.2025. Learned counsel has argued that the petitioner is a man aged 39 years and is the sole bread-earner of his family. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, he does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 10.08.2025 in Court, which is taken on record.

5. I have heard counsel for the rival parties and have gone through the available records of the case.

6. The present petitioner was arrested on 21.01.2025, whereinafter, investigation was carried out and the challan was presented on 19.03.2025. Total 17 prosecution witnesses have been cited, but none has been examined till date. It is thus, indubitable that conclusion of trial will take long. The rival contentions raised at Bar give shall be gone into during course of the trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

6.1. As per custody certificate dated 10.08.2025 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of

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06 months & 20 days. Further, as per the said custody certificate the petitioner is stated to be involved in multiple cases/ FIRs. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*, a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in CRM-M No.38822-2022 titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM /Duty Magistrate, the petitioner shall remain bound by the following conditions:

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and

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shall not change his cell-phone number without prior permission of the CJM/ Duty Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/ Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

August 11, 2025
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No